

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-281

September 18, 2001

MAINE NATURAL GAS COMPANY, LLC,
Monthly Indexed and Fixed Price Option
Rates – Emergency Alternative Rates

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this order, we approve Maine Natural Gas, LLC's proposal to suspend its Fixed Price Option (FPO) rates for October 2001 due to recent financial market interruptions. Also, MNG should file a revised tariff to provide an alternate rate setting formula to use in if in the future the relevant markets do not operate or provide the necessary information to calculate rates under the approved methodology.

II. BACKGROUND AND PROPOSAL

On September 14, 2001, Maine Natural Gas, LLC (MNG) filed with this Commission a request that it be allowed to suspend its FPO rates for one month due to the current national emergency. The FPO rates are set based on monthly New York Mercantile Exchange (NYMEX) Natural Gas and Home Heating Oil contract rates. The FPO rates allow MNG's customers to lock in a purchase of natural gas commodity at a specific rate, set at the end of a monthly enrollment period, for a fixed period of time, ranging from 3 to 24-month options. We approved this unique rate offering and the underlying calculation methodology in *Central Maine Power Company, Request for Approval to Furnish Gas Service In and To Areas Not Currently Receiving Natural Gas Service*, Docket No. 96-786, Order (Dec. 17, 1998) at 13. MNG's FPO rates are shown in rate schedules filed monthly that take effect automatically, subject to confirmation that they are in compliance with the approved rate setting methodology.

Under the rate plan, the FPO rates would have been set for October 2001 using settled contract prices for the NYMEX Futures Contracts for both Natural Gas and Home Heating Oil for September 14, 2001. Due to recent terrorist attacks, the NYMEX did not operate between the close of business on Monday, September 10, 2001 and Friday, September 14, 2001.¹ As a result, viable NYMEX values were not available for use in MNG's rate setting formula on Friday, September 14, 2001. Consequently, MNG proposes to suspend the FPO for one month.

¹ MNG reported that the market opened briefly on September 14, 2001 for limited (electronic) trading only but did not produce closing prices representative of a full trading day.

III. DISCUSSION AND CONCLUSION

Given that the markets opened only for a very brief time on Friday, September 14, 2001, for limited trading, and did not operate long enough to establish representative prices for a full trading day, MNG's proposal to suspend the FPO option for the month of October appears reasonable. MNG states that it is aware of at least two customers who wish to elect a FPO this month, but, MNG is reluctant to postpone the rate setting date to a later time in September once the market resumes activity, because of its concern that markets may behave erratically given recent events. On the whole, we conclude that the current national circumstances, which include uncertainty in the resumption and operation of the financial markets, support MNG's request to suspend the FPO for October 2001.

We do so, in part, recognizing that, under its rate plan, we have allowed MNG considerable discretion to price its service, particularly its commodity rates, as MNG deems appropriate. With the Company, rather than ratepayers, absorbing the consequences of any errors in the exercise of such managerial or entrepreneurial discretion, we conclude it is appropriate to allow MNG to exercise its judgment in this instance. In addition, we note that this hiatus only extends for one month and therefore, there should not be any long-term detrimental effects to either MNG or its customers. We, therefore, approve MNG's proposal to suspend its October 2001 FPO rates.

Finally, in an effort to avoid this problem in the future, MNG should provide us a revised tariff outlining an alternative rate setting methodology for use in the event of any future market failures.

Accordingly, we

ORDER

1. That Maine Natural Gas's proposal to suspend the Fixed Price Option (FPO) rate for the month of October 2001 is approved;

Dated at Augusta, Maine, this 18th day of September, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.